

### **REMARKS**

The foregoing amendments and these remarks are in response to the Final Office Action dated April 14, 2008. This amendment is timely filed.

At the time of the Office Action, claims 1-3, 6, 8 and 9 were pending. In the Office Action, claims 1-3, 6, 8 and 9 were rejected under 35 U.S.C. §103(a). The rejections are discussed in more detail below.

#### **I. Rejections on Art**

Claims 1, 2, 6 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,199,559 to Nikolaus (hereafter "*Nikolaus*") in view of U.S. Patent No. 6,360,658 to Benson ("*Benson*") and further in view of U.S. Patent No. 5,236,365 to Badami ("*Badami*"). Claims 3 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Nikolaus*, *Benson*, *Badami* and further in view of U.S. Patent No. 6,000,335 to Imamaki.

Claim 1 is amended herein to clarify that the claimed process is concerned with decoration of the top surface of a powder cosmetic product placed in a container and that the decoration is carried out by transferring parts of a powder-form decorating product from a cavity in a base to the top surface of the cosmetic product in the container. In this way, a cosmetic product in a container is obtained which has a decorated top surface.

Such a transfer is neither disclosed nor taught by *Nikolaus*, which merely mentions in col. 1, lines 35-41, that an application device may be used to transfer the cosmetic product from the container to the user's face. A decorated cosmetic product in a container is thus not obtained. Moreover, contrary to the Examiner's opinion, column 9, lines 26-28, of *Nikolaus* does not disclose leveling of the decorating product at the top of the cavity. It discloses evacuation of air from the cavity in a "burping" fashion, which is very different from leveling.

Otherwise stated, steps b and d-f of the process recited in claim 1 of the present application are not present in *Nikolaus*.

These deficiencies of *Nikolaus* are not remedied by *Benson*, which refers to the transfer of ink, that is, a liquid product, from ink impregnated segments to a surface to be inked. The ink

segments 20-22 of *Benson* are not cavities filled with a decorating product in powder form and no powder leveling step is provided. Moreover, once again, the surface to be decorated is the skin of the user and not the top surface of a cosmetic product in powder form inside a container. A decorated cosmetic product in a container is not obtained.

Furthermore, no additional relevant teaching is found in *Badami*.

For the foregoing reasons, claim 1 is believed to relate to patentable subject matter, and to be in condition for allowance. The dependent claims are also believed to be allowable because of their dependence upon an allowable base claim, and because of the further features recited.

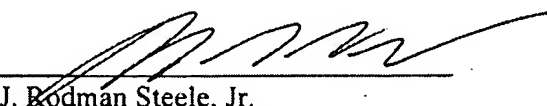
## **II. Conclusion**

Applicant has made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicant respectfully requests reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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